

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

PMC, Inc.,

Petitioner-Appellant,

v.

Dickinson County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 11-30-0276

Parcel No. 06-02-380-014

Docket No. 11-30-0277

Parcel No. 06-02-380-015

Docket No. 11-30-0278

Parcel No. 06-02-380-016

On May 4, 2012, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, PMC Inc., requested a hearing and was represented by Timothy Meyer. Assistant County Attorney Lonnie Saunders represented the Dickinson County Board of Review. Both parties submitted evidence in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

PMC, Inc., (PMC) is the owner of three residentially classified parcels located at 15964 Highway 86, Spirit Lake, Iowa. The three parcels have a total site size of 68,856 square feet, allocated to each parcel as follows: Parcel 06-02-380-014 (Lots 10 and 11) with 26,956 square feet, Parcel 06-02-380-016 (Lot 13) with 22,575 square feet, and Parcel 06-02-380-015 (Lot 12) with 19,325 square feet. The three sites, side by side, have a total of 208.96 lake front foot. After applying depth factors to each lot, the effective front foot is 248.26.

Two of the three parcels have improvements. Improvements on Parcel 06-02-380-015 include a driveway and paving. Improvements on Parcel 06-02-380-016 include a 1350 square-foot community recreation building with a 486 square-foot screened porch. There are also twenty-two cabins situated on 25-foot wide “lots” within the development. Each of the cabin owners own shares of PMC and leases the land under their cabin(s). Each cabin has its own unique parcel number and the improvements are assessed separately to the cabin owners as buildings on leased land. The cabins, therefore, are not part of this appeal.

The parcels under appeal have the following January 1, 2011, assessments:

Docket Number	Lot	Parcel Number	Allocation to Land	Allocation to Improvements	Total Assessed Value
11-30-0276	Lots 10 & 11	06-02-380-014	\$1,202,800	\$0	\$1,202,800
11-30-0277	Lot 12	06-02-380-015	\$673,800	\$4,100	\$677,900
11-30-0278	Lot 13	06-02-380-016	\$690,500	\$17,800	\$708,300
		Total	\$2,567,100	\$21,900	\$2,589,000

PMC protested to the Dickinson County Board of Review regarding the 2011 assessments. The appeal was based on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). The appeal stated the parcels had a total value \$1,361,800 representing the site only. PMC did not assert the allocation to the improvements were incorrect. PMC also claimed there has been a change downward in value since the last assessment under sections 441.35(3) and 441.37(1). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review denied the protest.

PMC then appealed to this Board reasserting its claim of over-assessment.

PMC contends its property is unique, primarily due to certain restrictions imposed on the cabin owners. PMC has corporate bylaws that “limit [the] title owner’s rights of control, exclusion, and

disposition.” We note the restrictions are self-imposed, and PMC’s claims regarding the restrictions are not entirely accurate. For instance, PMC asserts it has restrictions on its “right of disposition,” implying the owners’ right to sell, rent or transfer ownership at will is limited. While other shareholders of PMC essentially have the first right of refusal on the sale of a cabin, we note the cabin owner is not actually prohibited or limited from selling his or her property.

PMC also asserts a nearby area known as “Triboji” has similar restrictions, which makes those sites good comparables to the subject. Triboji is similarly situated on West Lake Okoboji, just north of PMC. According to PMC, Triboji has restrictions that limit the title owners’ rights because the State owns the land between the Triboji sites and the lakefront. Additionally, the State places restrictions on the number of boat hoists allowed on the shore-line per land owner. PMC also notes that unlike its development, Triboji does not have any restrictions on the construction of improvements other than following local codes.

We note a significant difference between the two developments. Triboji property owners actually own and have fee simple title to their sites *without* lake-frontage. Triboji owners own the land, but not the lakefront because the development deeded the lakefront to the State. On the other hand, PMC shareholders have leasehold ownership in the land as well as the lake frontage.

Timothy Meyer testified on behalf of PMC. He explained how he valued the subject site using two different methods of comparison. First, Meyer looked the assessments of nine Triboji properties and concluded an average assessed value of \$6658 per front foot. He then applied this average assessment to a depth factor for each of the subject sites, resulting in the following conclusions.

Lot	Front Foot	Depth ¹	Triboji \$/Ft	Adj Factor to PMC Depth	PMC Value/Ft	PMC Total Value
10 & 11	100.26	269	\$6658	1.17	\$7790	\$781,025
12	54.35	365	\$6658	1.22	\$8123	\$441,485
13	54.35	430	\$6658	1.24	\$8256	\$448,714 ²
					Total	\$1,671,224

We note the conclusion of \$1,671,224 is based on *assessments* and not sales of comparable sites. This is not typical methodology. Typically, to prove over-assessment, comparable *sales* are adjusted for differences compared to the subject property to determine the market value of a site or improved site. Additionally, the Triboji properties have no ownership over the actual frontage on the lake. Therefore, we give this analysis limited consideration.

Meyer also attempted to value the subject site using six cabin sales within PMC. The sales range in date from September 2007 to December 2011. Typically, for a January 1, 2011 valuation, sales are preferred to be more recent than 2007; however, given the unique nature of PMC, we would find proper analysis of older sales reasonable. Ultimately, we do not find the adjustments made by PMC for date of sale are properly developed.

In his analysis, Meyers basically attempts to extract the value of the improvements from the sales prices of PMC cabins to identify the remainder as the market value of the land. He does this by taking sales of PMC cabins and identifying them as being located in tier I, II, or III.³ He attempts to extract the site value to determine a “lot value” per cabin and multiplies this value based on the number of lots in each tier. His conclusions are as follows:

¹ It is unclear how Meyer arrived at a 269 foot depth for Lots 10 & 11. Combined, the lots have a flag shape. For lots 12 and 13 he simply took the average of the two sides of each lot as the depth.

² Meyers calculation resulted in \$448,713. We consider this a rounding error and have corrected it.

³ The tiers reflect proximity to the lake-front with tier I being closest and tier III being farthest from the lake.

Tier	Average Tier Value	# of Lots (Cabins) in Tier	Value per Tier ⁴
I	\$122,400	4	\$489,600
II	\$58,500	13 ⁵	\$747,500
III	\$63,100	5	\$315,500
Total			\$1,552,600

This method is flawed because PMC owns the land and leases it to the cabin owners. Because of this, the sale prices of the individual cabins reflect the value of the improvements and lake access but are not necessarily reflective of the underlying land value. We believe this situation would be similar to a mid- or high-rise condominium. Typically in condominiums, the higher floors are more valuable due to the views. While the land under the entire condominium is owned collectively and typically allocated on a percentage basis to each unit owner for assessment purposes, the buyers of the individual units are purchasing living area and views and not an actual site. Therefore, to value the collective site based on extraction of these individual unit sales is incorrect.

The extraction method works best for single-family sales with newer or few improvements on individually platted and owned sites. The cabin sales in the PMC development are unlike a typical single-family residential property where the buyer is purchasing the land and all the rights inherent with full title of the land. Because Meyer's analysis is essentially a method of extraction in an effort to prove land value by tier, we do not consider it proper methodology for this type of property and give it no consideration.

We believe Meyers chose this method because he believes this is how the assessor's office valued PMC's site. However, County Assessor Stephanie Sohn testified the PMC sites were valued using a front foot method, not on a "tiered" basis of the cabins lots within the PMC sites. She stated the extraction method was used only to provide support of the original assessment. We believe that

⁴ Meyer's conclusions on Exhibit 10 are incorrectly calculated. His calculations indicate a total value for Tier I of \$488,000, and a total value for Tier II of \$760,500. His calculations for Tier III were reported correctly. Because of his errors his total value conclusion for the collective PMC sites was \$1,564,000.

⁵ Meyer incorrectly reported 14 lots in Tier II. However, based on Exhibit 17 there are only 13 cabins in Tier II. Correcting this error also results in a correct total lot count of 22.

Sohn's attempt to support her front-foot values, while well-intentioned, has only exacerbated the valuation issue. And, we note that even as support we do not consider the method correct.

Sohn testified that regions (locations) on the lake are assessed differently than others in terms of their front-foot values. She noted PMC's location is in a good spot on the lake and near the most expensive lot on the lake. Sohn testified the subject sites were assessed by taking the \$11,000 price per front foot and multiplied by the depth factor and map factor.

Sohn also explained that while most condominium sites may be assessed on a square-foot basis, the subject's location amidst single-family sites, on a good area of the lake, is more appropriately assessed on a similar front-foot basis as neighboring lots. Under these facts, we agree.

Based upon the foregoing, the Appeal Board finds insufficient evidence has been submitted by PMC to support the claim of over-assessment brought before this Board.

Conclusions of Law

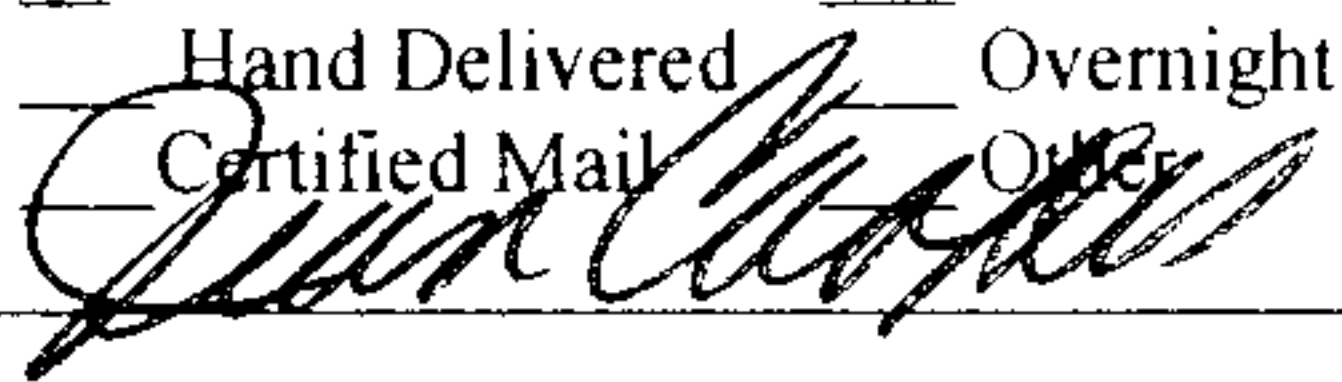
The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-20</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<u></u>

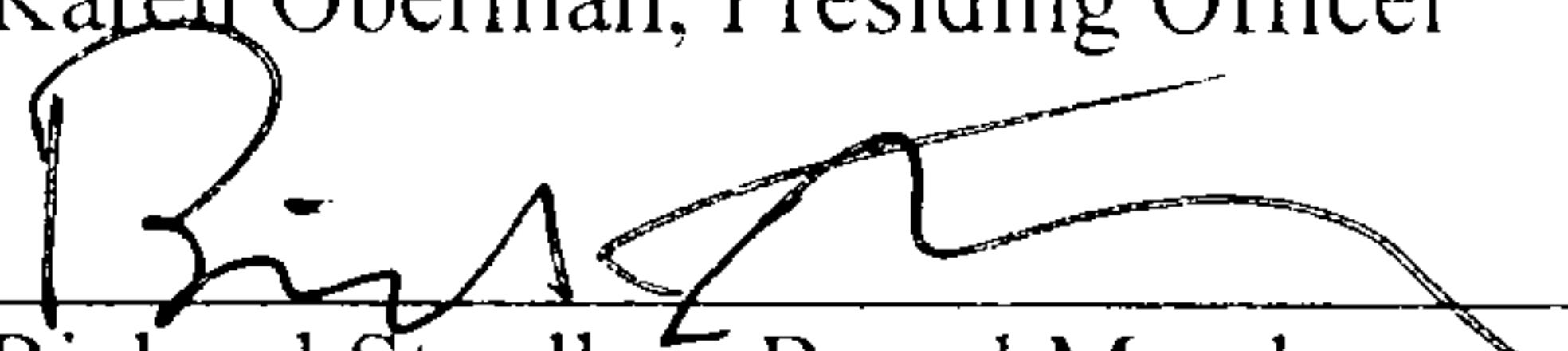
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). PMC attempted to value its site using two different methods of comparison. However, we do not find either method is correctly developed. PMC failed to provide this Board with sufficient evidence of comparable sales that showed its properties were over-assessed. We, therefore, affirm the assessment of the three residentially classified parcels located at 15964 Highway 86, Spirit Lake, Iowa, as determined by the Dickinson County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessments of the PMC's three residentially classified parcels located at 15964 Highway 86, Spirit Lake, Iowa, also known as Parcel numbers: 06-02-380-014, 06-02-380-015, and 06-02-380-016, as of January 1, 2011, set by the Dickinson County Board of Review, are affirmed.

Dated this 20 day of June, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member